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Attorney for Debtors

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

CASE NO. BK-N-17-51187-BTB
Chapter 13

JOSHUA A. FRYER and
SAMANTHA K. FRYER,

**MOTION TO MODIFY CONFIRMED
CHAPTER 13 PLAN**

Debtors.

Hearing Date: September 6, 2018
Hearing Time: 3:00 p.m.

JOSHUA A. FRYER and SAMANTHA K. FRYER (“Debtors”), by and through counsel, DARBY LAW PRACTICE, LTD. hereby move this Court for Approval to Modify Debtors’ post-confirmation Chapter 13 Plan, pursuant to 11 U.S.C. §1329, for the reasons set forth below. This Motion is supported by the Declaration of Debtors and the following points and authorities.

POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

1. Debtors filed this Chapter 13 bankruptcy case on October 11, 2017.
 2. This Court entered an Order Confirming Debtors' Chapter 13 Plan on February 1, 2018 ("Confirmation Order"). Pursuant to the Confirmation Order, Debtors' Chapter 13 plan payments increased from \$420.00 per month to \$510.00 per month for a total plan base of \$10,200.00.

3. On October 31, 2017, Santander Consumer USA Inc. (the ‘Santander’) filed a proof of claim for the total amount of \$11,149.02.

4. Post-petition, Debtors have fallen behind on their monthly payments for their

2014 Ford Escape to Santander in the amount of \$1,361.78. Debtors' monthly payments for the 2014 Ford Escape are \$268.00.

5. Debtors desire to cure their delinquency of post-petition payments through their Chapter 13 plan. Debtors are making their on-going post-petition car payments going forward on their 2014 Ford Escape.

II. LEGAL DISCUSSION

6. 11 U.S.C. §1329 provides, in pertinent part:

(a) At any time after confirmation of the plan but before the completion of payments under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to-

- (1) Increase or reduce the amount of payments on claims of a particular class provided for by the plan;
- (2) Extend or reduce the time for such payments;

(3) Alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim other than under the plan....

7. In the present case, Debtors have fallen behind on their post-petition payments to Santander. The 2014 Ford Escape secured by Santander is Debtors' primary mode of transportation. Debtors seek to modify their plan to pay back the post-petition delinquency of \$1,361.78 over the remaining 52 months of their plan.

8. Debtor's Counsel requests \$1,000.00 in attorneys' fees to be paid through the Chapter 13 plan for the preparation of this Motion and the Declaration of Debtors in support thereof, preparation of amended schedules, preparation of the modified plan, resolving any trustee objection, attending a hearing on this Motion and reviewing the order confirming the modified Chapter 13 plan. The hourly billable rate for Debtor's Counsel is \$400.00. Debtor's Counsel spent approximately 2.9 hours performing the above-services at \$400.00 per hour.

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1 **III. CONCLUSION**

2 Based on the foregoing, Debtors respectfully request this Court grant their Motion to
3 Modify.

4 DATED this 16th day of July 2018.

5 DARBY LAW PRACTICE, LTD.

6 */s/ Tricia M. Darby*

7 By: _____
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